

AGENDA ITEM #8

February 10, 2004

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Commission Position on Future of the Delta Protection Commission
(*For Possible Commission Action*)

Recommendation:

The Commission should determine how it proposes to participate in the on-going discussions of the future of the Commission, and drafting of legislation to modify the Commission and its mission. The Commission has several options:

- Prepare comments responding to the issues in the FY 03-04 Budget Bill to forward to Senator Machado and Assemblymember Wolk who have expressed interest in drafting legislation to amend the Delta Protection Act of 1992.
- Take other action, such as respond to only some of the issues raised in the FY 03-04 Budget Bill.
- Take no action at this time; respond to legislation that may be drafted in the future.

Included in this staff report are possible responses to issues identified by the Joint Legislative Budget Committee (note: these are the issues Resources Secretary Mike Chrisman addressed in his memo submitted to meet the terms of the FY 03-04 Budget Act). This staff report also includes some additional possible actions regarding possible legislation and the Commission's work plan.

Additional materials are available on the Commission's web site, www.delta.ca.gov or from staff, including:

- Secretary Chrisman's report to the Joint Legislative Budget Committee
- Excerpts from the minutes of Commission meetings from July 2003 through November 2003 where these issues were discussed.
- The staff report prepared for the January 2004 meeting is available on the web site under "Past Meeting Notices and Agendas"

Budget Language:

The Legislature adopted a State budget that was signed into law by the Governor in August 2003; the adopted budget includes \$307,000 for the Commission over FY 03-04. The Commission received \$167,000 from the Harbors and Watercraft Revolving Fund when the budget was signed. The remaining funds, from the Environmental License Plate Fund, were to be released after the Secretary for Resources submits a report to the Joint Legislative Budget Committee, on or before December 30, 2003, on the status of the Delta Protection Commission and its projected future workload. The report was submitted and the Commission received the remainder of its budget.

The Budget Bill states:

The report shall include, but not be limited to:

- The powers and duties of the Delta Protection Commission and its accomplishments to date.
- The impact on the agricultural resources, environmental health, and recreational opportunities of the Delta in the absence of the Delta Protection Commission.
- An analysis of various ideas regarding the future organization of the Delta Protection Commission, including but not limited to mission, membership, and funding, focused on the goal of increasing cooperation and consensus, and to better reflect the State's working relationship with local governments, landowners, and other public and private entities in the Delta, given the changes that have taken place since the creation of the Commission;
 1. Plans for continued efforts to protect agriculture, wildlife habitat, and recreational activities;
 2. Ways to facilitate coordination with other agencies such as the California Bay-Delta Authority;

The Legislative Analyst's Office shall provide the Legislature with an analysis of this report and make recommendations as appropriate, on or before February 15, 2004.

ACTION ONE: Respond to Legislature Regarding Issues Raised in the Budget Bill:

- The powers and duties of the Delta Protection Commission and its accomplishments to date.

Comment: All comments received to date concur that the Commission has succeeded in carrying out its mandate, has contributed to the protection of Delta Primary Zone resources and land uses, and establishes a continuing need for the Delta Protection Commission.

- The impact on the agricultural resources, environmental health, and recreational opportunities of the Delta in the absence of the Delta Protection Commission.

Comment: The preponderance of testimony has endorsed the need for the Commission to continue protection of the resources of the Delta Primary Zone.

Comments received to date concur that the absence of the Commission would result in land use changes that would adversely impact Delta Primary Zone resources and land uses.

- An analysis of various ideas regarding the future organization of the Delta Protection Commission, including but not limited to mission, membership, and funding, focused on the goal of increasing cooperation and consensus, and to better reflect the State's working relationship with local governments, landowners, and other public and private entities in the Delta, given the changes that have taken place since the creation of the Commission;
 - Plans for continued efforts to protect agriculture, wildlife habitat, and recreational activities;
 - Ways to facilitate coordination with other agencies such as the California Bay-Delta Authority;

Mission:

Discussion: In the Primary Zone, at the current level of funding, the Commission has limited options to change or expand its mission. The Commission has been seeking funding for the last three years to carry out studies to update the Regional Land Use Plan regarding recreation and agriculture. The Commission has authorization to acquire and hold easements, but does not have funding to pursue an easement program.

Comment: The Commission needs additional funding to carry out its current mission in the Primary Zone.

Discussion: In the Primary and Secondary Zones, the Commission has acted as the regional entity to provide a public forum for discussion of the CALFED/California Bay Delta Authority (CBDA) Program and project implementation. The Commission has commented on CALFED agency and CALFED funded projects in the Primary and Secondary Zones. These projects include conveyance, storage, levee, and ecosystem restoration projects. The Commission participates on a number of Bay Delta Public Advisory Committee (BDPAC) work groups, attends meetings of addition work groups, and attends meetings of the BDPAC. The Commission is a signatory to the Memorandum of Understanding that created the Agency Coordination Team--State and federal agencies that do not sit on the CBDA but want to continue to participate in the overall CBDA program implementation. The Commission attends CBDA meetings.

Comment: The Commission should continue to serve as the regional entity overseeing implementation of the CALFED/CBDA programs in the Legal Delta.

Discussion: In the Secondary Zone, the Commission has reviewed and provided advisory comments on proposed projects in the Secondary Zone that could impact

the resources of the Primary Zone. Projects reviewed include development projects that could adversely impact agriculture in the Primary Zone, development projects that would provide public access and recreation to and along the Delta waterways, marina projects that would provide access to Delta waterways, water projects that would remove water from the Delta pool possibly impacting water quality, and water outfalls that would release wastewater from industry or municipal sites into the waterways of the Delta Primary Zone.

Comment: The Commission should continue to review and comment on those proposed projects in the Delta Secondary Zone that could or would impact the resources of the Primary Zone.

Membership:

Discussion: The current make-up of the Commission has worked well to increase communication and understanding between the existing layers of government and represents the interest of most parties. The Commission has also created several committees to provide smaller forums for discussion of focused issues and planning programs.

One proposal would add a seat for non-governmental organizations (NGOs) that own land in the Delta Primary Zone. However, the five Reclamation District seats are elected every four years from a pool of candidates that include all Reclamation District trustees that live in the boundary of the Legal Delta (State Water Code Section 12220). NGOs are currently eligible to run for any of the five Reclamation District seats on the Commission.

One proposal would add a seat for historic preservation interests. The State Department of Parks and Recreation, which includes the State Historic Preservation Office, and the five Delta counties have seats on the Commission to represent the broader State interest in historic preservation and to address local interests, such as in the unincorporated communities in the Primary Zone.

Currently, CBDA staff attends each Commission meeting and provides regular updates. The Commission would welcome additional participation from the CBDA and the Delta region's representative on the CBDA.

Comment: The current membership includes elected and appointed government officials that represent the levels of government undertaking programs and projects in the Delta Primary Zone and understand and represent the landowners and managers, business owners and members of the public that participate in and benefit from Delta land uses.

Comment: The current membership should remain the core membership of the Commission.

Funding:

Discussion: If the Legislature expands the Commission's mission and mandate, additional funding would be needed. No new sources of funding have been identified.

- *A source of funding included in the original legislation--doubled fines in the Delta area -- was eliminated by the Legislature in 1996.*
- *The Commission has suggested the authorization of a Delta License Plate to create a new funding stream to fund special programs in the Delta Primary Zone. There has been no support for legislation for a Delta License Plate.*
- *The Commission adopted a position of support for legislation drafted to create a Delta Conservancy program. That legislation was not passed by the Legislature.*

One proposal would seek funding from Delta Reclamation Districts and cities and counties in the Delta; under the current local government revenue shortfalls, it is unlikely that funds will be available from local governments.

The State receives revenue from the Delta and its resources including water diversions, gas revenues, taxes on boat gas sales, lease fees from commercial marina facilities, and hunting and fishing license revenues, and should continue to be the primary source of funding for the Commission.

The State through CALFED program implementation may develop additional funds associated with a charge per unit of water diverted from the Delta; this would be an appropriate source of funding for the Commission.

Comment: Any increased responsibilities would require an increased budget. The primary source of funding for the Commission and its activities should continue to be the State of California.

ACTION TWO: Submit Suggestions to the Legislature Regarding Changes to Delta Protection Act of 1992:

- ***Preclude cities from expanding city limits or sphere of influence into the Delta Primary Zone.***
- ***Add clarifying language regarding the ability of the Commission to purchase and hold easements in and outside the Primary Zone (Secondary Zone and outside the Legal Delta) to carry out its mission and mandate to protect Delta land uses and resources.***
- ***Add language designating the Commission as the regional agency responsible for reviewing and commenting on CALFED/CBDA programs, projects and grants in the Legal Delta.***
- ***Add language authorizing the Commission to receive funds from future bond acts to pursue acquisition of easements currently authorized in the Delta Protection Act of 1992.***

ACTION THREE: Submit Suggestions for Topics for Further Study by the Commission and Report to the Legislature:

- *Study and report back on the history of the delineation of the boundary of the Legal Delta (State Water Code Section 12220 adopted in 1959) with recommendations for changes.*
- *Study and report back on land use changes and issues in areas since 1992 in the Secondary Zone and areas adjacent to but outside the Legal Delta.*
- *Pursue Memorandums Of Understanding with State agencies that implement projects and programs in the Delta to conform to the Commission's adopted Land Use and Resource Management Plan for the Primary Zone of the Delta.*